

AMENDED IN ASSEMBLY MARCH 26, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1751

Introduced by Assembly Member Bloom

February 14, 2014

An act to amend Section 1771.8 of the Health and Safety Code, relating to continuing care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1751, as amended, Bloom. Continuing care retirement communities.

(1) Existing law provides for the regulation by the State Department of Social Services of activities relating to continuing care contracts that govern care provided to an elderly resident in a continuing care retirement community for the duration of the resident's life or a term in excess of one year. Existing law declares the Legislature's finding that the residents of continuing care retirement communities have a unique and valuable perspective on the operations of, and services provided in, the community in which they live and should have input into decisions made by the provider.

Existing law requires every continuing care retirement community provider to make available to the resident association or its governing body, or if neither exists, to a committee of residents, a financial statement of activities for that facility comparing actual costs to budgeted costs broken down by expense category, not less than semiannually. Existing law also requires a provider to provide a copy of the annual report at a central and conspicuous location in the community. A violation of these provisions is punishable as a misdemeanor.

This bill would instead require the financial statement to be provided not less than quarterly, and would require it to include a written explanation of all significant budget variances. This bill would additionally require a ~~provider, who has entered into certain contracts,~~ *provider* to make a copy of the annual report available on its Internet Web site. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(2) Existing law requires the governing body of a provider to accept at least one resident of the continuing care retirement community it operates to participate as a nonvoting resident representative to the governing body or one in 3 of its communities.

This bill would additionally require the governing ~~board~~ *body* to accept at least 3 residents of the continuing care retirement community it operates or a number of residents equal to 25% of the members of the provider's governing ~~board,~~ *body*, whichever is greater, to participate as voting members of the provider's governing body, and would make other technical and conforming changes.

~~(3) Existing law authorizes the governing body to exclude resident representatives from its executive sessions and from receiving certain information.~~

~~This bill would delete those provisions.~~

~~(4)~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1771.8 of the Health and Safety Code is
2 amended to read:

3 1771.8. (a) The Legislature finds and declares all of the
4 following:

5 (1) The residents of continuing care retirement communities
6 have a unique and valuable perspective on the operations of, and
7 services provided in, the community in which they live.

1 (2) Resident input into decisions made by the provider is an
2 important factor in creating an environment of cooperation,
3 reducing conflict, and ensuring timely response and resolution to
4 issues that may arise.

5 (3) Continuing care retirement communities are strengthened
6 when residents know that their views are heard and respected.

7 (b) The Legislature encourages continuing care retirement
8 communities to exceed the minimum resident participation
9 requirements established by this section by, among other things,
10 the following:

11 (1) Encouraging residents to form a resident association, and
12 assisting the residents, the resident association, and its governing
13 body to keep informed about the operation of the continuing care
14 retirement community.

15 (2) Encouraging residents of a continuing care retirement
16 community or their elected representatives to select residents to
17 participate as members of the governing body of the provider.

18 (3) Quickly and fairly resolving any dispute, claim, or grievance
19 arising between a resident and the continuing care retirement
20 community.

21 (c) The governing body of a provider, or the designated
22 representative of the provider, shall hold, at a minimum,
23 semiannual meetings with the residents of the continuing care
24 retirement community, or the resident association or its governing
25 body, for the purpose of the free discussion of subjects including,
26 but not limited to, income, expenditures, and financial trends and
27 issues as they apply to the continuing care retirement community
28 and proposed changes in policies, programs, and services. This
29 section does not preclude a provider from taking action or making
30 a decision at any time, without regard to the meetings required
31 under this subdivision.

32 (d) At least 30 days prior to the implementation of an increase
33 in the monthly care fee, the designated representative of the
34 provider shall convene a meeting, to which all residents shall be
35 invited, for the purpose of discussing the reasons for the increase,
36 the basis for determining the amount of the increase, and the data
37 used for calculating the increase. This meeting may coincide with
38 the semiannual meetings required in subdivision (c). At least 14
39 days prior to the meeting to discuss an increase in the monthly
40 care fee, the provider shall make available to each resident or

1 resident household comparative data showing the budget for the
2 upcoming year, the current year's budget, and actual and projected
3 expenses for the current year, and a copy shall be posted in a
4 conspicuous location at each facility.

5 (e) The governing body of a provider or the designated
6 representative of the provider shall provide residents with at least
7 14 days' advance notice of each meeting provided for in
8 subdivisions (c) and (d), and shall permit residents attending the
9 meeting to present issues orally and in writing. The governing
10 body of a provider or the designated representative of the provider
11 shall post the notice of, and the agenda for, the meeting in a
12 conspicuous place in the continuing care retirement community
13 at least 14 days prior to the meeting. The governing body of a
14 provider or the designated representative of the provider shall make
15 available to residents of the continuing care retirement community
16 upon request the agenda and accompanying materials at least seven
17 days prior to the meeting.

18 (f) A provider shall make available to the resident association
19 or its governing body, or if neither exists, to a committee of
20 residents, a financial statement of activities for that facility
21 comparing actual costs to budgeted costs broken down by expense
22 category, not less than quarterly, with a written explanation of all
23 significant budget variances, and shall consult with the resident
24 association or its governing body, or, if neither exists, with a
25 committee of residents, during the annual budget planning process.
26 The effectiveness of consultations during the annual budget
27 planning process shall be evaluated at a minimum every two years
28 by the continuing care retirement community administration. The
29 evaluation, including any policies adopted relating to cooperation
30 with residents, shall be made available to the resident association
31 or its governing body, or, if neither exists, to a committee of
32 residents at least 14 days prior to the next semiannual meeting of
33 residents and the provider's governing body provided for in
34 subdivision (c), and a copy of the evaluation shall be posted in a
35 conspicuous location at each facility.

36 (g) A provider shall, within 10 days after the annual report
37 required pursuant to Section 1790 is submitted to the department,
38 provide, at a central and conspicuous location in the community
39 *and in a conspicuous location on the provider's Internet Web site*,
40 a copy of the annual report, including the multifacility statement

1 of activities and a copy of the annual audited financial statement,
2 but excluding personal confidential information.

3 ~~(h) A provider, who has entered into Type A contracts, shall,~~
4 ~~within 10 days after the annual report required pursuant to Section~~
5 ~~1790 is submitted to the department, make available in a~~
6 ~~conspicuous location on the provider's Internet Web site, a copy~~
7 ~~of the annual report, including the multifacility statement of~~
8 ~~activities and a copy of the annual audited financial statement, but~~
9 ~~excluding confidential personal information.~~

10 ~~(i)~~

11 (h) A provider shall maintain, as public information, available
12 upon request to residents, prospective residents, and the public,
13 minutes of the meetings held by the provider's governing body
14 and shall retain these records for at least three years from the date
15 the records were filed or issued.

16 ~~(j)~~

17 (i) The governing body of a provider that is not part of a
18 multifacility organization with more than one continuing care
19 retirement community in the state shall accept both of the
20 following:

21 (1) At least one resident of the continuing care retirement
22 community it operates to participate as a nonvoting resident
23 representative to the provider's governing body.

24 (2) At least three residents of the continuing care retirement
25 community it operates or a number of residents equal to 25 percent
26 of the members of the provider's governing ~~board, body~~, whichever
27 is greater, to participate as voting members of the provider's
28 governing body.

29 ~~(k)~~

30 (j) In a multifacility organization having more than one
31 continuing care retirement community in the state, the governing
32 body of the multifacility organization shall do both of the
33 following:

34 (1) Elect either to have at least one nonvoting resident
35 representative to the provider's governing body for each
36 California-based continuing care retirement community the
37 provider operates or to have a resident-elected committee composed
38 of representatives of the residents of each California-based
39 continuing care retirement community that the provider operates
40 select or nominate at least one nonvoting resident representative

1 to the provider's governing body for every three California-based
2 continuing care retirement communities or fraction thereof that
3 the provider operates. If a multifacility organization elects to have
4 one representative for every three communities that the provider
5 operates, the provider shall provide to the president of the residents
6 association of each of the communities that do not have a resident
7 representative, the same notice of meetings, packets, minutes, and
8 other materials as the resident representative. At the reasonable
9 discretion of the provider, information related to litigation,
10 personnel, competitive advantage, or confidential information that
11 is not appropriate to disclose, may be withheld.

12 (2) Elect to have at least three residents from any of the
13 continuing care retirement communities it operates or a number
14 of residents equal to 25 percent of the members of the provider's
15 governing ~~board~~, *body*, whichever is greater, to participate as voting
16 members of the provider's governing body. If there are
17 communities that do not have a resident from the community as a
18 voting member of the provider's governing body, the provider
19 shall provide to the president of the residents association of each
20 of those communities, the same notice of meetings, packets,
21 minutes, and other materials as the resident voting members. At
22 the reasonable discretion of the provider, information related to
23 litigation, personnel, competitive advantage, or confidential
24 information that is not appropriate to disclose, may be withheld.

25 ~~(h)~~

26 (k) In order to encourage innovative and alternative models of
27 resident involvement, residents selected pursuant to subdivision
28 ~~(j) or (k)~~ (i) or (j) to participate as a resident representative or
29 member to the provider's governing body may, at the option of
30 the resident association, be selected in any one of the following
31 ways:

32 (1) By a majority vote of the resident association of a provider
33 or by a majority vote of a resident-elected committee of residents
34 of a multifacility organization.

35 (2) If no resident association exists, any resident may organize
36 a meeting of the majority of the residents of the continuing care
37 retirement community to select or nominate residents to represent
38 them on the governing body.

39 (3) Any other method designated by the resident association.

40 ~~(m)~~

1 (l) The resident association, or organizing resident, or in the
2 case of a multifacility organization, the resident-elected committee
3 of residents, shall give residents of the continuing care retirement
4 community at least 30 days' advance notice of the meeting to select
5 a resident representative and members and shall post the notice in
6 a conspicuous place at the continuing care retirement community.

7 ~~(n)~~

8 (m) (1) ~~The resident representative~~ Except as provided in
9 subdivision (n), resident representatives and members shall receive
10 the same notice of meetings, packets, minutes, and other materials
11 as other members of the provider's governing body and shall be
12 permitted to attend, speak, and participate in all meetings of the
13 governing body.

14 (2) Resident representatives and members may share information
15 from meetings with other residents, unless the information is
16 confidential or doing so would violate fiduciary duties to the
17 provider. *A resident representative shall be permitted to attend*
18 *meetings of the governing body committee or committees that*
19 *review the annual budget of the facility or facilities and recommend*
20 *increases in monthly care fees. The resident representative shall*
21 *receive the same notice of meetings, information, packets, minutes,*
22 *and other materials as committee members, and shall be permitted*
23 *to attend, speak, and participate in the committee meetings.*
24 Resident representatives and members shall perform their duties
25 in good faith and with such care, including reasonable inquiry, as
26 an ordinarily prudent person in a like position would use under
27 similar circumstances.

28 (n) *Notwithstanding subdivision (m), the provider's governing*
29 *body may exclude resident representatives from its executive*
30 *sessions and from receiving meeting materials to be discussed*
31 *during executive session. However, resident representatives shall*
32 *be included in executive sessions and shall receive all meeting*
33 *materials to be discussed during executive sessions related to*
34 *discussions of the annual budgets, increases in monthly care fees,*
35 *indebtedness, and expansion of new and existing continuing care*
36 *retirement communities.*

37 (o) The provider shall pay all reasonable travel costs for resident
38 representatives and members.

1 (p) The provider shall disclose in writing the extent of resident
2 involvement with the ~~board~~ *governing body* to prospective
3 residents.

4 (q) A provider is not prohibited from exceeding the minimum
5 resident participation requirements of this section by, for example,
6 having more resident meetings or more resident representatives
7 or members to the provider's governing body than required or by
8 having one or more residents on the provider's governing body
9 who are selected with the active involvement of residents.

10 SEC. 2. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.